

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

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| MALLON ROBERTS, | : | Case No. 1:15-cv-697 |
| | : | |
| Plaintiff, | : | Judge Timothy S. Black |
| | : | Magistrate Judge Karen L. Litkovitz |
| vs. | : | |
| | : | |
| JUDGE MELBA D. MARSH, <i>et al.</i> , | : | |
| | : | |
| Defendants. | : | |

**DECISION AND ENTRY
ADOPTING THE REPORT AND RECOMMENDATIONS
OF THE UNITED STATES MAGISTRATE JUDGE (Doc. 4)**

This case is before the Court pursuant to the Order of General Reference in the United States District Court for the Southern District of Ohio Western Division to United States Magistrate Judge Karen L. Litkovitz. Pursuant to such reference, the Magistrate Judge reviewed the pleadings filed with this Court and, on October 29, 2015, submitted a Report and Recommendations. (Doc. 4). Plaintiff filed objections. (Doc. 5).¹

As required by 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72(b), the Court has reviewed the comprehensive findings of the Magistrate Judge and considered *de novo* all

¹ Plaintiff raises two objections: (1) Judges Marsh and Crouse are not entitled to immunity because they did not have jurisdiction to act; and (2) the two year statute of limitations did not begin to run until Plaintiff received the November 25, 2014 letter from the Hamilton County Court of Common Pleas. (Doc. 5). Assuming *arguendo* that Judges Marsh and Crouse are not entitled to absolute immunity, Plaintiff's claims are still barred by the two-year statute of limitations. Plaintiff argues that the statute of limitations did not begin to run until November 25, 2014, when he received a letter from the Hamilton County Court of Common Pleas responding to his request for a journalized order. However, unlike the fraud case Plaintiff cites, Plaintiff was aware of the alleged civil rights violation at the time of his 2005 trial when Judge Crouse presided over his case instead of Judge Marsh. Plaintiff provides no explanation for why he waited until 2014, nine years after his trial, to contact the Court.

of the filings in this matter. Upon consideration of the foregoing, the Court does determine that such Report and Recommendations should be and is hereby adopted in its entirety. Accordingly:

1. Plaintiff's complaint (Doc. 1) is **DISMISSED** with prejudice pursuant to 28 U.S.C. §1915(e)(2)(B) and 1915A(b)(1); and
2. The Court certifies that pursuant to 28 U.S.C. § 1915(a)(3), an appeal of this Order would not be taken in good faith and therefore Plaintiff is denied leave to appeal *in forma pauperis*.
3. The Clerk shall enter judgment accordingly whereupon this case is **TERMINATED** in this Court.

IT IS SO ORDERED.

Date: 11/16/15

s/ Timothy S. Black
Timothy S. Black
United States District Judge